



Entered on Docket
February 15, 2011

Bruce A. Markell

Hon. Bruce A. Markell
United States Bankruptcy Judge

THE LAW OFFICES OF RANDOLPH H. GOLDBERG
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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

In re:

**MOHAMED ETTAGHI &
CSILLA ZSOK**

Debtor(s).

Case No.: BK-S-10-30931-BAM
Chapter 13
Trustee: Kathleen Leavitt

Date: 2/10/2011
Time: 3:05 p.m.

ORDER TO VALUE COLLATERAL; ORDER TO AVOID LIEN

THIS MATTER having come before the Court for a hearing on **FEBRUARY 10, 2011**, on Debtors' MOTION TO VALUE COLLATERAL; MOTION TO AVOID LIEN, and based upon the papers and pleadings on file herein, and good cause appearing; the Court finds as follows:

1. The Debtors' principal residence located at **2081 EAGLEPATH CIRCLE, HENDERSON, NEVADA 89074** (the "Subject Property") is valued at

1 **\$265,000.00** as of the date of filing Debtors' Chapter 13 Petition.

- 2
3 2. The Subject Property is collateral for senior secured claim of **AMERICAN**
4 **HOME MORTGAGE SERVICING, INC.** ("Senior Lienholder").

5 **[Check only one box, and fill in the blanks]**

6 ☐ Senior Lienholder has filed a Proof of Claim related to such claim, (N/A)
7 and such Proof of Claim claims a debt of \$. Senior Lienholder's Proof of
8 Claim indicates that Senior Lienholder has assigned to this claim.

9 **[or]**

10 ☒ Senior Lienholder has **not** filed a Proof of Claim related to its claim, but has
11 assigned **AMERICAN HOME MORTGAGE SERVICING, INC.** to this claim.
12 The Debtor's schedules list the amount of Senior Lienholder's claims as **\$308,069.00**.
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- 17 3. The Subject Property is also collateral for a junior secured claim of **FIRST**
18 **TENNESSEE BANK, N.A.** ("Junior Lienholder").

19 **[Check only one box, and fill in the blanks]**

20 ☒ Junior Lienholder has filed a Proof of Claim (**12-1**) related to such claim, and
21 such Proof of Claim claims a debt of **\$192,368.35**. Junior Lienholder's Proof of
22 Claim indicates that Junior Lienholder has assigned **FIRST TENNESSEE BANK,**
23 **N.A.** to this claim.
24

25 **[or]**

26 ☐ Junior Lienholder has **not** filed a Proof of Claim related to its claim, but has
27 assigned to this claim. The Debtor's schedules list the amount of Junior
28

1 Lienholder's claims as \$

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3 4. Given the above, Junior Lienholder's interest in the Debtor's interest in the Subject
4 Property has no value.

5 THEREFORE, IT IS HEREBY ORDERED THAT, pursuant to Zimmer v. PSB Lending
6 Corp. (In re Zimmer), 313 F. 3d 1220 (9th Cir. 2002), and 11 U.S.C. §§ 506(a) and 506(d), Junior
7 Lienholder's claim is unsecured, and shall be treated as unsecured for all purposes in this case,
8 including the manner in which such claim is treated and paid in Debtor's chapter 13 plan; and
9

10 IT IS FURTHER ORDERED THAT, should debtor receive a discharge in this case, Junior
11 Lienholder shall as soon as practicable thereafter take all necessary and appropriate steps to
12 remove its lien of record, and to ensure that Debtor's title to the Subject Property is clear of any
13 cloud on title related to Junior Lienholder's claim. This court hereby reserves jurisdiction with
14 respect to any dispute over the actions necessary to comply with this paragraph; and
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16 IT IS FURTHER ORDERED THAT, should this case be converted to one under another
17 chapter, 11 U.S.C. § 348(f) shall govern the continued validity of this order; and
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19 IT IS FURTHER ORDERED THAT, should this case be dismissed, 11 U.S.C. §
20 349(b)(1)-(3) shall govern the continuing validity of this order; and
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22 IT IS FURTHER ORDERED THAT nothing in this order shall be deemed to be an
23 allowance or disallowance of any claim of Senior Lienholder or Junior Lienholder, and any party
24 in interest, including the Debtor of the Trustee, may hereafter object to either claim on any ground
25 recognized by the Bankruptcy Code.

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1 DATED this 12 day of JANUARY, 2011

2 THE LAW OFFICES OF
3 RANDOLPH H. GOLDBERG

4 By /S/ RANDOLPH GOLDBERG ESQ.
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9 Attorney for Debtor
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2 **LR 9021. ENTRY OF JUDGEMENTS AND ORDERS**

3 Pursuant to LR 1001[©], the judges of the District of Nevada hereby
4 adopt this administrative order and amend the following local rules:

5 LR 9014 (g) is hereby amended to read as follows:

6 g) Compliance with LR 9021. In chapter 7 and 13 cases, LR
7 9021(b)(1) is waived if a proposed order is served with the
8 motion and the motion is granted. The proposed order must be
9 attached as an exhibit and may not be separately filed or
submitted for the judge's signature prior to the hearing. If
the proposed order is not served with the motion, or if the
order has been modified by the court or otherwise, the LR 9021
(b) (1) is applicable.

10 LR 9021[©] is hereby amended to read as follows:

11 1) Documents listed in subsection (a) above must be submitted to
12 the court with the following certification from the submitting
counsel:

13 In accordance with LR 9021, counsel submitting this document
14 certifies that the order accurately reflects the court's ruling
and that (check one):

15 ☐ The court has waived the requirements
16 set forth in LR 9021 (b)(1).

17 ☐ No party appeared at the hearing or
filed an objection to the motion.

18 ☐ I have delivered a copy of this
19 proposed order to all counsel who
appeared at the hearing, and any unrepresented
20 parties who appeared at the hearing, and each has
approved or disapproved the order, or failed to
21 respond, as indicated below [list each party and
whether the party has approved, disapproved, or
22 failed to respond to the document]:

23 **KATHLEEN A. LEAVITT**
24 **201 LAS VEGAS BOULEVARD, SOUTH #200**
LAS VEGAS, NEVADA, 89101

25 ☐ **APPROVED**

26 ☐ **DISAPPROVED**

27 ☐ **FAILED TO RESPOND**

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I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

- 2) No language other than "approved" or "disapproved" may appear above opposing counsel's signature; and
- 3) Unless the court orders otherwise, "opposing counsel" means any attorney who appeared at the hearing regarding the matter that is the subject of the order or who filed objections.
- 4) Variation from the certification language indicated in paragraph (c)(1) may be cause for returning the draft order unsigned by the court.